Supreme Court, U. S.
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MICHAEL RODAK, JR., CLERK

No. 80-297

IN THE

Supreme Court of the United States

OCTOBER TERM, 1980

CLARENCE H. HOLDING,

Petitioner,

v.

BVA CREDIT CORPORATION, HAROLD L. BRYANT, JOHN J. DICKINSON, KENNETH L. GRAY, DAVID M. SHAW AND GEORGE T. MATTHEWS,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE FOURTH CIRCUIT

RESPONDENTS' BRIEF IN OPPOSITION TO PETITION FOR WRIT OF CERTIORARI

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I.
STATEMENT OF THE CASE

This case arises out of a foreclosure sale of real estate belonging to the Petitioner. The pleadings, briefs, and petition for writ of certiorari filed by Mr. Holding are an almost incomprehensible welter of allegations relating to this fore-

closure. Reduced to their essence, these allegations seem to be that the Respondent, David M. Shaw, acting in collusion with the other Respondents, defrauded Mr. Holding by selling the foreclosed property for an inadequate price. In addition to various claimed violations of state law, Mr. Holding alleges that these acts constituted a violation of certain undefined constitutional rights, and seeks the sum of $20,150,000.00 in damages. All of the questions Mr. Holding seeks to present in his Petition for Writ of Certiorari, with the possible exception of the eighth question,* appear to relate to questions of state law.

Mr. Holding has previously sued the Respondents in the Virginia state courts, seeking to litigate his alleged claims arising out of this same foreclosure. When the Supreme Court of Virginia refused to grant his Petition for Appeal on April 11, 1978, Mr. Holding appealed to this Court, which dismissed his appeal on November 6, 1978. *Holding* v. *BVA Credit Corp.*, 439 U.S. 949 (1978).

Mr. Holding next filed the present action in the United States District Court for the Eastern District of Virginia in February 1979. In his Complaint, Mr. Holding essentially attempted to set forth the same cause of action that he had previously litigated unsuccessfully in the Virginia state courts. The district court (Merhige, J.) dismissed this action as barred by the Virginia statute of limitations; the United States Court of Appeals for the Fourth Circuit summarily affirmed on the same grounds. *See* Appendix to Petition for Writ of Certiorari, Exhibits 1 and 2.

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*The eighth question presented reads as follows;

> Whether this case evolves from fraud and collusion in a fiduciary relationship which violated the constitutional rights of the petitioner due process causing grave great personal injuries and damages, loss of property, and business and rendered the petitioner totally disabled and should be compensated which is permanent [sic].

II.

ARGUMENT

It is apparent that the issues Mr. Holding again seeks to present in his Petition For Writ of Certiorari do not warrant review by this Court. It is equally obvious that the actions of the district court and the Fourth Circuit of Appeals were manifestly correct. *See* Appendix to Petition For Writ of Certiorari, Exhibit 2. There simply is no basis for prolonging these proceedings, or for subjecting the Respondents to any further expense attendant to this vexatious litigation.

III.

CONCLUSION

For these reasons, the Petition For Writ of Certiorari should be denied.

Respectfully submitted,

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September 26, 1980

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CERTIFICATE

I certify that I have mailed three copies of the foregoing Respondents' Brief In Opposition To Petition For writ Of Certiorari to Clarence H. Holding, 1901 Woodbine Road, Richmond, Virginia 23225, this 26th day of September, 1980.

BENJAMIN C. ACKERLY